

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES COAST GUARD,
THE DEPARTMENT OF TRANSPORTATION
AND THE
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
THE DEPARTMENT OF LABOR
CONCERNING OCCUPATIONAL SAFETY AND HEALTH ON ARTIFICIAL ISLANDS,
INSTALLATIONS AND OTHER DEVICES ON
THE OUTER CONTINENTAL SHELF ON THE UNITED STATES

- I. PURPOSE - The purpose of this Memorandum of Understanding is to establish procedures to increase consultation and coordination between the United States Coast Guard (USCG) and Occupational Safety and Health Administration (OSHA) with respect to matters affecting the occupational safety and health of personnel working on the Outer Continental Shelf of the United States.

- II. DEFINITION - For purposes of the Memorandum, the following definition applies:

Working Conditions on the Outer Continental Shelf of the United States Working conditions related to activities, including diving, taking place on or from, on the waters adjacent to, or otherwise associated with artificial islands, installations, or other devices permanently or temporarily attached to the seabed and exploring for, developing or producing resources from the Outer Continental Shelf of the United States, or any device (other than ship or vessel) used for the purpose of transporting such resources (43 U.S.C. 1333(a)(1)).

III. AGENCY RESPONSIBILITIES

A. United States Coast Guard

The USCG has authority to promulgate and enforce Safety and Health Regulations for working conditions on the OCS of the United States. In carrying out this responsibility on the OCS the Coast Guard will cooperate with the Occupational Safety and Health Administration to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime industry. The USCG, consistent with its statutory authority:

1. Promulgates regulations and may modify any regulation, interim if final, applying to hazardous working conditions related to activities on the Outer Continental Shelf, and promulgates such other regulations as may be necessary to promote the safety of life and property on the OCS;
2. Promulgates regulations to provide for scheduled onsite inspection, at least once a year, of each facility on the Outer Continental Shelf which is subject to any environmental, safety or health regulation promulgated by the Coast Guard pursuant to the OCS Act, and also provides for periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental, health or safety regulations;

3. Reviews any allegation from any person of the existence of a violation of a safety or health regulation or other unsafe working condition.
4. Investigates and makes a public report on any death or serious injury occurring as a result of operations conducted pursuant to the OCS Act, and may investigate and report on other injuries, casualties or accidents.
5. Initiates appropriate civil and criminal procedures and other actions to enforce any provision of the OCS Act or any regulation issued under the Act.

B. Occupational Safety and Health Administration

The Occupational Safety and Health Act (OSHAct) applies with respect to working conditions on Outer Continental Shelf Lands (29 USC 653(a)), but does not apply to working conditions with respect to which the Coast Guard or other Federal agencies exercise statutory authority to prescribe or enforce standards affecting occupational safety and health (29 USC 653(b)(1), See. 21(d) of the OCS Act). The Occupational Safety and Health Administration will cooperate with the Coast Guard to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime Industry.

Consistent with its statutory authority under the Occupational Safety and Health Act¹ OSHA:

1. Prescribes occupational safety and health rules and regulations as necessary to carry out its responsibility under the OSHAct;
2. Inspects and investigates places of employment to insure compliance with any applicable OSHA requirements;
3. Responds to allegations of violations of applicable OSHA requirements and makes investigations where there are reasonable grounds to believe that a violation exists.
4. Issues citations and initiates appropriate civil and criminal procedures against employers for violations of applicable OSHA requirements;

IV. PROCEDURES

The two agencies agree, consistent with their statutory obligations, to observe the following procedures in carrying out their responsibilities to promote safe working conditions on the OCS:

A. Development and promulgation of standards

The Coast Guard will develop and promulgate necessary regulations to assure safe and healthful working conditions on the QCS. OSHA will continue to promulgate general standards, which may, apply to working conditions on the OCS not being regulated by the Coast Guard. In developing regulations and standards, the two agencies will cooperate to the maximum extent possible. Such cooperation will include, but will not be limited to the following:

1. Information and data availability. For the purposes of identifying work hazards, determining accident or illness causes, developing corrective measures, and assessing the impacts of new or revised regulations or standards, the two agencies will exchange data and study results to the extent permitted by law.
2. Standards research and development. The two agencies will jointly participate in standards research and development projects of mutual interest and benefit.
3. Review of existing regulations and standards. The two agencies will jointly review existing USCG and OSHA regulations and standards to help identify hazards that require priority attention in Coast Guard regulations development projects;
4. Exchange of technical expertise. Each agency will provide the other with technical support, where feasible, to assist in the review of particular hazards or the development of regulations.
5. Early notice of rulemaking activities. The Coast Guard will provide for OSHA's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which relate to working conditions on the OCS. Likewise, OSHA will provide for the Coast Guard's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which have application to any working condition on the OCS. Publication of any rule, however, is not contingent upon receipt of comments.

B. Enforcement of regulations and standards

While OSHA has statutory responsibilities with respect to workplaces on the OCS, the following provisions have been drafted to emphasize the Coast Guard increasing role for safety and health on the OCS, as provided under the OCS Lands Act Amendments of 1978 (Pub. L 95-372). Through this Act, Congress expressed the that the Coast Guard would be the principal Federal agency in matters occupational safety and health on the OCS.

1. Routine enforcement activities:
 - a. The Coast Guard will continue to enforce existing regulations issued under its authority which affect working conditions on the OCS.
 - b. The Coast Guard will also enforce any new occupational safety and health regulations promulgated under its authority affecting working conditions on the OCS.
 - c. OSHA remains responsible for enforcing requirements adopted under the OSHA Act which apply to working conditions on the OCS for which the Coast Guard or other Federal agencies have not exercised their statutory authority to prescribe or enforce standards affecting occupational safety and health. To minimize any duplication which may result from exercising this responsibility, OSHA will consult with the Coast Guard and seek to minimize the need for OSHA's routine inspection activity.

2. Investigation of accidents:

In accordance with regulations issued under its authority, the Coast Guard will investigate deaths, injuries and other casualties or accidents occurring as a result of operations conducted pursuant to the OCS Act. In the course of all such investigations, formal and informal, the Coast Guard will cooperate with OSHA with respect to identifying violations of applicable OSHA regulations related to the casualty or accident. Such cooperation will include: promptly making investigation information available to OSHA; inviting OSHA attendance at Coast Guard formal hearings; and developing lines of inquiry suggested by OSHA. Where a Coast Guard investigation identifies an apparent violation of an applicable OSHA regulation the Coast Guard will promptly notify OSHA and subsequently will cooperate with OSHA with respect to any enforcement action OSHA may undertake. This cooperation may include, but is not limited to, providing transportation, as available; provided, however, OSHA remains responsible for obtaining its own legal right of access to any facility.

3. Investigation of allegations:

The Coast Guard will review any allegation from my per5011 of the existence of a violation of an occupational safety or health regulation or other unsafe working condition on the OCS and take appropriate action under the circumstances. Copies of complaints of occupational safety or health violations on the OCS received by OSHA will be referred to the appropriate Coast Guard district commander for action. The Coast Guard will notify OSHA as promptly as possible of the disposition of allegations forwarded by OSHA.

V. JOINT TRAINING PROGRAM

The two agencies will review the training needs of agency personnel with responsibilities for matters pertaining to safety and health on the OCS, and will develop programs responsive to these needs.

VI. IMPLEMENTATION

The Coast Guard and OSHA shall each designate a representative who shall be responsible for coordinating implementation of the provisions of this Memorandum.


VII. EFFECTIVE DATE


This Memorandum is effective upon signature by the parties. It may be amended at any time by mutual written agreement of the agencies and may be terminated by either agency upon thirty days written notice.

VIII. SAVINGS PROVISION

Nothing in this Memorandum shall be deemed to alter, amend, or affect in any way the statutory authority of the Coast Guard or OSHA.

Signed At Washington, DC this 19th day of December, 1979.


Commandant
United States Coast Guard
Department of Transportation


Assistant Secretary
Occupational Safety and Health
Department of Labor

Memorandum of Understanding Between the
Environmental Protection Agency and the United
States Coast Guard Concerning the Mitigating of
Damage to the Public Health or Welfare Caused
by a Discharge of a Hazardous Substance under
Section 311 of the Clean water Act. (33 USC 1321)

The U.S. Coast Guard (USCG) and the Environmental Protection Agency (EPA) agree that the responsibility for the mitigation of damage to the public health and welfare caused by the discharge of hazardous substances shall be shared by the USCG and EPA. This Memorandum establishes policy concerning the responsibilities of the EPA and USCG regarding mitigation actions

SECTION I

GENERAL

Section 311(b)(6)(C) of the clean Water Act, as amended, authorizes the Administrator of EPA to act to mitigate the damage caused by the discharge of hazardous substances. The cost of mitigation shall be deemed a removal cost incurred under Section 311(c) of the Clean Water Act.

Through Executive Order 11735 (or as amended), the authority of the President pursuant to Section 311 (j) (1) (A), relating to the establishment of methods and procedures for the removal of discharged oil and hazardous substances, is delegated to both EPA and USCG.

The waters and areas for which each agency has responsibility are defined in the National oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 1510, Section 1510.36(b)).

According to the National Contingency Plan, EPA is responsible for inland waters and the USCG is responsible for coastal waters and the waters, ports and harbors of the Great Lakes. These geographical areas are further defined in applicable national Contingency Plans.

SECTION II

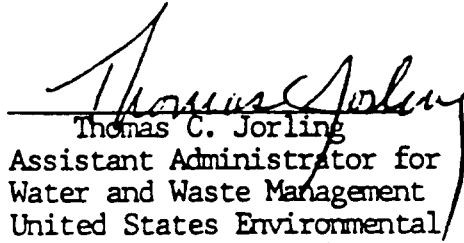
COORDINATION


In accordance with the predesignated geographical areas of responsibility, EPA and the USCG agree to undertake appropriate mitigation actions of discharges of hazardous substances within each agency's defined area of responsibility.

The cost of such mitigation actions shall be considered a cost of removal incurred under subsection (c) of the Clean Water Act and shall be reimbursable through the 311 (k) revolving fund.

Mitigation efforts include, but are not limited: activities such as containment measures; measures required to warn and protect the public of acute danger; activities necessary to provide and monitor the quality of temporary drinking water sources; monitoring for spread of the pollutant; monitoring to determine the extent of the contamination; physical measures to identify and contain substances contaminated by the discharge; providing navigational cautions while response to the problem is underway; efforts to raise tugs and barges which are the source of the discharge; implementation of emergency treatment facilities; and any efforts necessary to locate the source of the discharge and identify properties of the pollutants discharged. The long term

solution to many spills may be the construction of major capital structures including advanced treatment system or extension dikes. While such major construction may well mitigate the danger to public health or welfare, they are not appropriate mitigation actions under Section 311(b)(6)(C).


Thomas C. Jorling
Assistant Administrator for
Water and Waste Management
United States Environmental
Protection Agency


W.E. Caldwell, Rear Admiral
Chief, Office of Marine
Environment and Systems
United States Coast Guard

INSPECTION AND CERTIFICATION AGREEMENT BETWEEN
THE BOY SCOUTS OF AMERICA, EXPLORING DIVISION
AND THE UNITED STATES COAST GUARD

BACKGROUND: In 1956, the 84th Congress enacted Public law 519 requiring the inspection and certification of certain vessels carrying passengers. The requirements for inspection and certification are found in Title 46, United States Code, Sections 390 to 390g (usually abbreviated as 46 USC 390-390g).

The United States Coast Guard has been delegated the responsibility for developing the rules and regulations to carry out the provisions of the law. The Coast Guard also has the responsibility for enforcing the rules and regulations.

In order to assist local councils, chartered organizations, and leaders in complying with Coast Guard regulations, the Boy Scouts of America's Exploring Division and the United States Coast Guard have entered into the following agreement regarding inspection and certification. While the agreement principally discusses the Sea Explorer program, it applies equally to all vessels operated in the interests of the Boy Scouts of America.

1. **Inspection Agreement:** It is the intention of the Boy Scouts of America, Exploring Division, that all Sea Explorer vessels, except pulling boats carrying no more than six passengers, be inspected and certificated by the U.S. Coast Guard. The United States Coast Guard, upon proper application, will inspect Sea Explorer vessels and issue a Certificate of Inspection when the vessel is found to comply with the appropriate inspection regulations.
2. **Applicable Vessel Regulations:**
 - a. **The Rules and Regulations for Small Passenger Vessels,** 46 CFR Parts 175-187, hereafter referred to as "Subchapter T," will be the regulations applicable to those vessels required to be certificated by regulation, or for which inspection is requested in accordance with this agreement.
 - b. **The Rules and Regulations for Uninspected Vessels,** 46 CFR, Parts 24-26, hereafter referred to as "Subchapter C," will be the regulations applicable to those vessels not requiring certification.
3. **Vessels Required to be Inspected:**
 - a. All Sea Explorer vessels 65 feet in length and under which carry more than six passengers as defined in 46 USC 390(a) are required to be inspected and certificated under the provisions of Subchapter T.
 - b. Sea Explorer vessels of 100 gross tons or more may be inspected under Subchapter T. Where the provisions of Subchapter T are unsuitable, the provisions of Marine Engineering Regulations, Subchapter F; Rules and Regulations for Passenger Vessels, Subchapter H; and Electrical Engineering Regulations, Subchapter J, shall be used. The Officer in Charge, Marine Inspection certificating the vessel will determine the minimum manning requirements. The certificating officer may tailor a license examination covering minimum professional requirements only, and restrict the license to a particular vessel.
4. **Vessels Inspected Under Agreement:**

- a. Certificates of Inspection may be issued to powered Sea Explorer vessels 65 feet in length or under and Sea Explorer sailing vessels under 700 gross tons, which carry six passengers or less, upon successful completion of inspection under the provisions of Subchapter T. Such vessels, when uninspected, must be in compliance with the appropriate regulations of Subchapter C; and annual application for U.S. Coast Guard Auxiliary Courtesy Motorboat Examination is encouraged.
 - b. It is recognized that a strict interpretation of the law does not require inspection and certification of vessels over 65 feet in length used exclusively for Sea Explorer activities. However, to assure maximum safety it is the policy of the Boy Scouts of America that all Sea Explorer vessels over 65 feet in length be in possession of a valid Certificate of Inspection when carrying more than six passengers in addition to the crew.
 - c. All certificates issued to vessels not required to be inspected under the provisions of 46 USC 390-390g shall be endorsed, "This certificate is issued in accordance with terms of the USCGIBSA Inspection and Certification Agreement."
5. Pulling Boats: Sea Explorers engaged in the rowing of pulling boats are not considered passengers; therefore, pulling boats are not required to be inspected for certification. These vessels must be in compliance with the appropriate regulations in Subchapter C.
6. Manning:
- a. Certificated Sea Explorer vessels will not be operated without the minimum manning as specified on the Certificate of Inspection. Sailing vessels and powered vessels will be permitted to carry a reasonable number of Sea Explorers as crew members who are not classified as passengers. The number in the crew will be determined at the time of the inspection by the Coast Guard Officer in Charge, Marine Inspection, and will be indicated on the Certificate of Inspection.
 - b. The following guidelines are minimum crew requirements on vessels 65 feet in length and under. Evaluation for manning will consider the number of passengers carried, route, and general arrangement, in addition to the size of the vessel:
 1. Sailing Vessels Under 26 feet 1½" WA
 - 1 Operator
 - 2 Deckhands
 2. Sailing Vessels 26 feet WA and Larger
 - 1 Operator
 - 4 Deckhands
 3. Power Vessels Under 26 feet WA
 - 1 Operator
 - 1 Deckhand
 4. Power Vessels 26 feet WA and Larger
 - 1 Operator
 - 2 Deckhands

- c. Power vessels not having engine controls at the steering station shall require at least one additional crew member to provide for engine control.
 - d. When a vessel is cruising for more than 12 hours of continuous operation, the above minimum crew guidelines will be doubled to provide for two separate watches.
- 7. Special Situations: Section 175.25-1 of Subchapter T provides that the Officer in Charge, Marine Inspection, may give special consideration to departures from specific requirements when special circumstances or arrangements warrant such departures.
- 8. Right to Appeal: Section 175.30-1 of Subchapter T provides a procedure for appeal of decisions or action of the Officer in Charge, Marine Inspection. In addition, Coast Guard District officers may arrange for a method of informal dispute settlement for minor disagreements.
- 9. Personnel Licensing Procedures:
 - a. The operator of a Sea Explorer vessel falling within the scope of Subchapter T of this agreement shall obtain an operator's license issued by the U.S. Coast Guard. The following are the general requirements:
 - 1. Qualifying experience:
 - (a) For licenses as operators for ocean or coastwise routes (ocean operator), evidence of experience in accordance with 46 CFR 187.25. The license issued will be limited as to size of vessel and route commensurate with the experience of the applicant.
 - (b) For licenses as operator on other than ocean routes, evidence of experience in accordance with 46 CFR 187.20. For mechanically propelled vessels and sailing vessels, the minimum requirement is 12 month's program (experience in the operation of the type of vessel specified in the application. For auxiliary sailing vessels, the minimum requirement is 18 months' experience in the operation of mechanically propelled vessels, sailing vessels, and auxiliary sailing vessels of which at least 12 month's experience has been in the operation of sailing vessel⁸ or auxiliary sailing vessels. The license issued may be limited as to size of vessel and route commensurate with the experience of the applicant.
 - 2. Completed license application form including three character references.
 - 3. Certificate of physical examination by the U.S. Public Health Service or by a reputable physician attesting to the applicant's acuity of vision, color sense, and general physical condition.
 - 4. Successful completion of a written professional examination administered by the Coast Guard.
 - b. The evidence of service shall be in the form of a letter of certification listing the following specific information:

1. The name, type, and size of each vessel.
 2. The starting and completion dates of each specific voyage, its point of departure, and its destination, insofar as practicable.
 3. The waters cruised upon each vessel.
 4. The applicant's assignment on each voyage.
- c. Consideration is given to the fact that most Sea Explorer leaders are yachtsmen whose boating activities are not readily documented by others. If a Sea Explorer leader has not been employed by someone from whom documented evidence can be obtained, he should present an affidavit from another Boy Scout official or person in a position to know of his experience. Evidence of service must, however, be acceptable to the Officer in Charge, Marine Inspection.
- d. Operators of vessels identified in paragraph 4 of this agreement may apply under the following guidelines, for licenses endorsed, "This license, issued in accordance with the USCGIBSA Inspection and Certification Agreement, is restricted to the operation of vessels certificated under that agreement and not under the provisions of 46 USC 390-390g."
1. Applicants for licenses as operators for routes other than ocean or coastwise, who have three months of operating experience, are eligible to take the license examination. They must, however, present satisfactory evidence that they have successfully completed a course of instruction by the U.S. Coast Guard Auxiliary or by the U.S. Power Squadrons. Such licenses shall be restricted on their face to vessels operated in the interests of the Sea Explorer program, limited as to size and route commensurate with the experience of the applicant, and may be restricted to the operation of specifically named vessels.
 2. Applicants for licenses as operators for ocean or coastwise routes must have at least six months of operating experience and otherwise meet all of the requirements of the above.
10. Determination of Seaworthy Condition of Vessels to be Accepted:
- When vessels are to be acquired for Sea Explorer use it is encouraged that a marine inspector from the nearest Marine Inspection Office be invited by the National Sea Exploring Committee, BSA regional office or BSA local council to assist in the examination of the vessel. He may assist by out-lining in broad generalities the vessel's suitability for the Sea Explorer program, the feasibility of certification, and by indicating the obvious requirements for certification.
11. Establishment of Policy, Agreements and Liaison:
- a. The administration of this agreement on behalf of Sea Exploring shall be through its national director. All matters between the U.S. Coast Guard and Sea Exploring that are national in scope shall be between the Commandant of the Coast Guard or his designee and the national committee on Sea Exploring or its designee.

- b. Liaison between the BSA's six geographical regions and the District Commanders of Coast Guard districts in the implementation of this agreement with local councils, chartered organizations, and Sea Explorer leaders shall be the responsibility of the regional director or his designee. Liaison responsibilities include dispute resolution and establishment of implementation guidelines that recognize significant local conditions.
12. Amendment Provision: This inspection and certification agreement may be amended upon 30 days written notice by either agreeing party.



H. H. BELL
RADM, USCG
Chief, Office of Merchant Marine
Safety
Date: 30 AUG 1979



James L. Tarr
Chief Scout Executive
Boy Scouts of America
Date: October 1, 1979

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY AND U.S.
COAST GUARD ON ASSESSMENT OF CIVIL PENALTIES FOR
DISCHARGES OF OIL AND DESIGNATED HAZARDOUS SUBSTANCES**

(August 15, 1979; Published at 44 FR 50785, August 29, 1979, and 44 FR 50916,
August 30, 1979)

The United States Environmental Protection Agency (EPA) and the United States Coast Guard (USCG) have determined that it is necessary to establish procedures pursuant to which decisions may be made:

(1) Whether a discharge of a designated hazardous substance is excluded from the application of the civil penalty procedures prescribed by section 311(b)(6) of the Clean Water Act (CWA); and

(2) Whether action will be taken under paragraph (A) or under paragraph (B) of section 311(b)(6) CWA to impose a penalty for the discharge of a designated hazardous substance not so excluded.

The EPA and the USCG agree that decisions as to whether a discharge of a designated hazardous substance is excluded from the application of section 311(b)(6) CWA will be made initially by the EPA in cases evidencing particular potential violation gravity, i.e., meeting criteria set out in section III of this memorandum. In all other cases the decision will be made initially by the agency providing the On Scene Coordinator to the discharge incident. When a decision is made that a discharge is excluded, penalty action under section 311(b)(6) CWA will be withheld.

The EPA and the USCG agree that decisions as to whether action will be initiated to impose civil penalties under paragraph (B) of section 311(b)(6) CWA, will be made by the EPA. Cases involving USCG responses, which evidence particular potential violation

gravity, i.e., meeting criteria set out in section III of this memorandum, will be transmitted to the EPA for its consideration. In all cases where EPA determines that it is appropriate to initiate civil penalty action under paragraph (B) of section 311(b)(6) CWA, the USCG will withhold the initiation of civil penalty action under paragraph (A) of section 311(b)(6) CWA.

This memorandum establishes policies, procedures, and guidelines concerning the responsibilities of the EPA and the USCG in carrying out the foregoing agreement.

The respective responsibilities of each agency specified in this memorandum may be delegated to their respective subordinates consistent with established procedures.

The EPA and the USCG will review the implementation of this memorandum at least one year from the effective date of 40 CFR Part 117 or sooner if agreed to by both agencies, and will make any changes to the policy, procedures, and guidelines set forth herein which are agreed to by both agencies.

Section 1: General

The amendment of November 2, 1978 to section 311 CWA (Public Law 95-576) excluded certain discharges of hazardous substances from the application of section 311(b)(6) CWA. The discharges so excluded are: (a) discharges in compliance with a section 402 CWA permit, (b) discharges resulting from circumstances identified and reviewed and made a part of the

public record with respect to a permit issued or modified under section 402 CWA, and subject to a condition in such permit, and (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 CWA, which are caused by events occurring within the scope of relevant operating or treatment systems.

In addition, this amendment created two methods for penalizing discharges of hazardous substances. The first, which already existed as section 311(b)(6) CWA prior to the amendment, authorizes the USCG to assess a civil penalty not to exceed \$5,000 for the discharge of oil or a designated hazardous substance [section 311(b)(6)(A)]. The second method, created by the new amendment, provides that the EPA, through the Department of Justice, may initiate a civil action in Federal district court for penalties not to exceed \$50,000 per spill of hazardous substance, unless such discharge is the result of willful negligence or willful misconduct, in which case the penalty shall not exceed \$250,000 [section 311(b)(6)(B)].

The legislative history accompanying the amendment makes clear that Congress intended to create a dual option system for penalizing discharges of hazardous substances under section 311(b)(6) CWA. A discharger of a designated hazardous substance can be penalized under paragraph (A) or paragraph (B), but not both. The EPA and the USCG agree that paragraph (B)

does not apply to oil discharges. The USCG will continue to assess oil discharge penalties administratively under paragraph (A).

Section II: Coordination

When a spill of a designated hazardous substance occurs, the On Scene Coordinator (OSC) will prepare a factual report of the incident. At the minimum, the report will address those criteria set forth in section III, of this memorandum.

The OSC will submit this report within 60 days of the spill incident. The OSC will submit the report to the District Commander when he is a USCG OSC, and to the Regional Administrator, when he is an EPA OSC.

When the District Commander reviews the USCG OSC's report and determines that one or more of the criteria set forth in section III, below is applicable to that case, the entire record of that case will be referred to the EPA Regional Administrator for review. In addition the District Commander will refer the entire record of:

(a) Any other case involving a designated hazardous substance from a point source subject to a section 402 permit or permit application, which, prior to or after the commencement of penalty action, the USCG determines is excluded from the application of section 311(b)(6) CWA; and

(b) Any other case which, the District Commander considers appropriate for possible application of section 311(b)(6)(B) CWA.

When the Regional Administrator receives a case, either from an EPA OSC or upon referral from the District Commander, he will determine:

(a) Whether the case is excluded from the application of section 311(b)(6) CWA, and, if not,

(b) Whether a civil penalty action under section 311(b)(6)(B) CWA will be initiated.

The Regional Administrator will make these determinations within 90 days of his receipt of referral documents and will notify the District Commander promptly of the determinations in cases which have been referred. If the Regional Administrator determines that an action under section 311(b)(6)(B) CWA will be initiated, the case will be prepared in the EPA Regional Office and forwarded to the Department of Justice (DOJ) in accordance with established EPA case referral procedures.

If the Regional Administrator determines that the discharge is not excluded from the application of section 311(b)(6) CWA and that paragraph (B) action is inappropriate, or if EPA Headquarters declines to refer a Regional case, EPA will return the case to the USCG for appropriate action under paragraph (A).

Upon request, each Agency will make available to the other any or all cases, files, and records, including OSC reports and official determinations, regarding decisions concerning exclusions or the imposition of section 311(b)(6)(A) or (B) penalties. Where there is disagreement as to the disposition of a particular case, the District Commander and the Regional Administrator will consult to resolve the matter. If necessary, the matter will be submitted to the respective Agency Headquarters for final resolution.

Section III: Criteria

The USCG and the EPA agree that if one or more of the following criteria exists, the District Commander will refer the case to the Regional Administrator in accordance with section II of this memorandum:

a. Any indication of misconduct or lack of reasonable care on the part of the owner, operator, or person in charge with respect to the discharge or with respect to the failure on the part of the owner, operator, or person in charge to adhere to the guidance of the OSC regarding clean-up or any policies, procedures, guidelines, or regulations applicable to clean-up;

b. Any discharge incident other than a threat for which payments are made or to be made from the section 311(k) fund pursuant to 33 CFR 153.407, except where no discharger has been identified;

c. Any indication of prior violations by the discharger of any provision of the CWA, or violations of provisions of the CWA other than section 311(b)(6) CWA occurring at the time of the discharge, such as violations of a section 402 permit;

d. Any discharge incident (other than a threat) as defined in 40 CFR 1510.5 (1) which requires activation (by full or limited assembly, or by telephone) of the Regional Response Team as required by 40 CFR 1510.34(d), as amended; and

e. Any discharge involving human injury or evacuation, damage to plant or animal life, or contamination of water supply or underground aquifers.

Other referrals to the EPA may be made on a discretionary basis.

Dated: August 15, 1979.

Marvin B. Durning,

Assistant Administrator for Enforcement,
United States Environmental Protection
Agency.

Dated: August 17, 1979.

K. H. Scarborough,
Acting Commandant, United States Coast
Guard.

INTERAGENCY AGREEMENT BETWEEN THE U. S. FISH AND WILDLIFE SERVICE
AND THE U.S. COAST GUARD FOR PARTICIPATION IN POLLUTION INCIDENTS

- I. PURPOSE: The purpose of this Interagency Agreement (IM) is to specify the conditions and procedures under which the U.S. Fish and Wildlife Service will provide U.S. Coast Guard Federal On-Scene Coordinators with appropriate technical expertise as well as services in support of the Federal Government's efforts to control and clean up oil and hazardous chemical discharges. This IM is implemented to enhance cooperation, efficiency and effectiveness of response activities.
- II. SERVICES TO BE PROVIDED: Under the terms of this agreement:
 - A. The Fish and Wildlife Service will provide or furnish Coast Guard with technical expertise with respect to populations and habitats of fish and wildlife, including migratory birds, marine mammals and endangered and threatened plants and animals; specialized bird-hazing and cleanup equipment; and personnel to coordinate efforts to mitigate the threat to and rehabilitate birds affected by discharges of oil and hazardous chemicals, as a force integrated into the predesignated On-Scene Coordinator's (OSC's) local response team.
 - B. The Fish and Wildlife Service also will provide storage at its facilities for Coast Guard spill response equipment under the predesignated OSC's jurisdiction to the extent practicable to allow for prestaging of response equipment near vulnerable environmentally sensitive areas.
 - C. The Coast Guard will provide storage at their facilities for Wildlife Service response equipment to the extent practicable for prestaging of Fish and Wildlife Service response equipment.
 - D. Responsibility for maintaining equipment prestaged at the other party's facility rests solely with the agency owning the equipment. Host agencies will, however, assist in making arrangements to transport equipment stored at their facilities when requested by the other agency. The cost of transporting equipment will be borne by the owner agency, unless agreed to otherwise.
- III. SOURCES OF AND PROCEDURES FOR OBTAINING U.S. FISH AND WILDLIFE SERVICE SUPPORT
 - A. Fish and Wildlife Service personnel and equipment will be furnished as indicated in appropriate OSC local response plans and regional contingency plans. These plans shall specify the Fish and Wildlife Service personnel who are available to function on each OSC's local response team.
 - B. Procedures for obtaining Fish and Wildlife Service support shall be specified in appropriate predesignated OSC's local response and regional contingency plans.
- IV. U.S. COAST GUARD RESPONSIBILITIES
 - A. The Coast Guard will advise all of its District Commanders, predesignated OSCs, and Regional Response Team (RRT) members of the terms of this Agreement.

- B. The Coast Guard is designated as administrator of the pollution revolving fund established by the Federal Water Pollution Control Act of 1972 (P.L. 92-500), as amended. As such, the Coast Guard is responsible for reimbursing Federal agencies that provide support to Federal OSCs.
- C. In the event that Fish and Wildlife Service involvement is desired by the Coast Guard during an incident not covered by the Federal Water Pollution Control Act, or Outer Continental Shelf Lands Act, the Coast Guard shall advise the Fish and Wildlife Service the extent to which reimbursement can be expected when the request for assistance is made.
- D. Commandant (G-WEP) shall coordinate agreements for prestaging equipment at National Strike Force locations.
- E. Coast Guard RRT representatives shall coordinate agreements for prestaging equipment at Coast Guard and Fish and Wildlife Service facilities within the RRT's geographical area of responsibility.

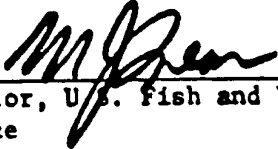
V. U.S. FISH AND WILDLIFE SERVICE RESPONSIBILITIES

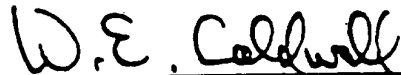
- A. It is understood that subsequent to formalizing this .IAA, the Fish and Wildlife Service will advise its Regional Offices and Pollution Response Coordinators of the terms of this Agreement, their respective duties and responsibilities, methods of accounting, and reimbursement or payment for Fish and Wildlife Service efforts during pollution incidents covered by this Agreement.
- B. The Fish and Wildlife Service National Pollution Response Coordinator shall coordinate agreements for prestaging response equipment at National Strike Force locations.
- C. The Fish and Wildlife Service RRT representatives shall coordinate agreements for prestaging response equipment at facilities within the RRTs geographical area of responsibility.

VI. REIMBURSEMENT PROCEDURES AND POLICIES

- A. The Federal OSC is responsible for insuring that proper cost documentation records are maintained.
- B. Federal agencies providing advice and assistance are responsible for providing OSCs with supporting documentation for cost accounting.
- C. Agencies providing assistance in support of a Federal cleanup operation as requested by an OSC are entitled to reimbursement for the following items:
 - 1. Travel, per diem, and overtime costs for personnel.
 - 2. Rental costs, as approved by the parent agency, for non-expendable equipment provided.
 - 3. Replacement costs for expendable materials provided and utilized.

4. Replacement or repair costs for nonexpendable equipment which is damaged while under the administrative control of the OSC. For purposes of this Agreement items are under the OSC's administrative control from the time they are delivered for his/her use, whether the delivery is made at the scene of the incident or to an agent of the OSC at another location, until the time when the item is returned to the custody of the agency providing the equipment or its duly appointed agent.
 5. Transportation costs incurred in delivering items to and from the scene.
 6. Incremental operating and contract costs incurred in providing assistance to OSCs.
- D. Normal salary costs of Government employees in positions that are not normally intended to provide services in support of response operations are reimbursable.
- E. The fiscal agent for the Coast Guard will be the Comptroller of the cognizant Coast Guard District.

Approved:  JUN - 6 1979
Associate Director, U.S. Fish and Wildlife Service Date

Approved:  24 JUL 1979
Chief, Office of Marine Environment Systems, U.S. Coast Guard Date


MEMORANDUM OF UNDERSTANDING BETWEEN THE DIRECTOR, FEDERAL BUREAU OF
INVESTIGATION
AND COMMANDANT, UNITED STATES COAST GUARD CONCERNING A POLICY OF
MUTUAL ASSISTANCE
IN SUPPORT OF COAST GUARD/FEDERAL BUREAU OF INVESTIGATION OPERATIONS
TO COUNTERACT TERRORIST ACTIVITIES IN A MARITIME ENVIRONMENT

In recognition of the U.S. Coast Guard's maritime law enforcement responsibility, and the operations of the Federal Bureau of Investigation in counteracting domestic terrorist activities, the following mutual assistance capabilities are identified. The Coast Guard maintains and operates a large number of strategically located floating units, aircraft, vehicles and shore stations. The Federal Bureau of Investigation maintains a large number of strategically located Special Weapons and Tactics teams (SWAT). Coast Guard personnel are trained to react to law enforcement activities in a maritime environment, while the FBI has personnel who are specifically trained to act as negotiators in dealing with terrorists' demands and SWAT teams to use in suppressing terrorists' actions during direct confrontation scenarios. The unique capabilities of the two forces in a combined effort to counteract a terrorist takeover in the maritime environment is recognized.

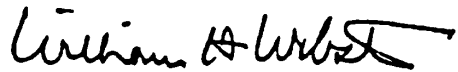
Close coordination and cooperation between forces of both Agencies is necessary to insure adequate response to potential terrorist activities involving such targets as offshore platforms, port and harbor facilities, liquefied natural gas (LNG) terminals and vessels, floating nuclear power plants, U.S. or foreign vessels within United States jurisdiction and any other target(s) which may require Coast Guard and FBI response.

Accordingly, it is hereby understood and agreed upon that, subject to operational and budgetary constraints, the Agencies making this agreement will provide mutual support to each other in situations involving terrorist activities, threatened or real, and that each Agency will take necessary steps to establish local operating procedures to implement this agreement. It is further agreed that continued planning by the two concerned Agencies will include the development of a specific communications, command and control policy between Coast Guard Districts and FBI Regional offices.

A basic objective of this agreement is to insure a coordinated effort to counteract terrorist activities in the maritime environment. Further, it is expected that this agreement will serve to eliminate delays in response time and insure continued development of procedures and contingency plans to counteract terrorist activities in the maritime environment.


JOHN B. HAYES
COMMANDANT,
United States Coast Guard

4/12/79
Dated


WILLIAM H. WEBSTER
DIRECTOR,
Federal Bureau of Investigation
3-23-79
Dated

DOE-USCG INSPECTION AND CERTIFICATION AGREEMENT
FOR THE USNS CHEPACHET

1. INSPECTION AGREEMENT. The OTEC-1 Program Manager, Department of Energy desires that the U.S. Coast Guard inspect and certificate the USNS OHEPACHET (TAO-78), a MARAD T2-SE-A1 Tanker design which will be civilian manned. This public vessel is owned by the USA as represented by the Department of Energy and will be designated the 5.5. CHEPACHET, Miscellaneous Research Platform for OTEC-1 service. All required inspections/surveys/examinations will be conducted by the cognizant OCMI in accordance with the applicable regulations except as modified herein.
2. CERTIFICATE OF INSPECTION. The Department of Energy intends that the CHEPACHET will not proceed to sea until such time as a Certificate of Inspection is issued indicating that the vessel complies with the applicable rules and regulations of the U.S. Coast Guard as set forth in this agreement. While the CHEPACHET is operating as a Miscellaneous Research Platform for OTEC-1 service, it will be operated in a limited coastwise service in the Hawaiian Islands with one round trip ocean voyage from the West Coast of the United States.

The USNS CHEPACHET has been previously certificated by the U.S. Coast Guard as a "Naval Tankship, in service, civilian manned," in accordance with the standards applicable to NSC vessels, for many years. The CHEPACHET has been moored in the MARAD National Defense Reserve Fleet at Suisan Bay, California, in an active status since 1972. The CHEPACHET was transferred to the Department of Energy on 9 October 1978 and delivered to the custody of Global Marine Development Inc., on the same date in accordance with the provisions of Contract No. ET-78-C-03-1785 between the United States of America and Global Marine Development Inc., effective 25 September 1978.

3. APPLICABLE VESSEL REGULATIONS. DOE-USCG considers the basic rules and regulations applicable to the CHEPACHET Miscellaneous Research Platform for OTEC-1 service, to be the following:
 - (a) Rules and Regulations for Cargo and Miscellaneous Vessels (Title 46 CFR - Subchapter I)
 - (b) Proposed Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases (Title 46 CFR - Subchapter O)
 - (c) Loadline Regulations (Title 46 CFR - Subchapter E)
 - (d) Rules and Regulations for Mobile Offshore Drilling Units (Title 46 CFR - Subchapter I-A)
 - (e) Rules and Regulations for Electrical Installations (Title 46 CFR - Subchapter J)
 - (f) Rules and Regulations for Machinery Installations (Title 46 CFR - Subchapter F)
 - (g) Navigation Safety Regulations (Title 33 CFR - Part 164)
 - (h) Oil Pollution Regulations (Title 33 CFR - Subchapter O)
 - (i) Marine Sanitation Regulations (Title 33 CFR - Part 159)

(j) Measurement of Vessels (Title 46 CFR - Part 69, Subchapter C)

Existing installations and configurations may be acceptable if maintained in a condition satisfactory to the Officer in Charge Marine Inspection (OCMI). New installations and renewals shall meet current requirements.

The CHEPACHET shall be classified as a "Miscellaneous Research Platform for OTEC-I Service" as a "DOE, in service, civilian manned vessel," being a vessel of the United States of America and used for public purposes, is not subject to the provisions on the International Convention for the Safety of Life at Sea, and accordingly, will not be furnished with Convention Certificates. Also, the provisions of the U.S. Coast Guard regulations regarding documentation will not apply.

4. DOE-USCG agree to the application of various rules and regulations in the following manner:

(a) Rules and Regulations for Cargo and Miscellaneous Vessels (Title 46 CFR Parts 90-98 - Subchapter I):

- (1) OTEC-I test plant personnel will be considered "Industrial Personnel" as per Subpart 90.10-15.
- (2) Structural Fire Protection will meet Subpart 92.07.
- (3) Stability will meet the requirements of Subpart 93. A stability test will be conducted under the supervision of the U.S. Coast Guard and an Operating Booklet will provide for guidance of the Master.
- (4) Fire Extinguishing Equipment will meet the current requirements contained in Subparts 95.01 through 95.60.
- (5) The existing lifeboat installations (four 31 person L/B's) will be accepted (if serviceable) provided 100% inflatable liferafts are provided for all person-~ allowed on board. In addition, a suitable open water motor propelled rescue boat with a davit or other suitable launching gear capable of launch by no more than two men shall be provided.
- (6) The anhydrous ammonia installation will meet the requirement⁸ of Subpart 98.25. Pressure vessels will meet the requirement. described in paragraph 4.(f)(3) below. In addition, personnel protection shall be provided to the satisfaction of the OCMI.
- (7) Vans configured for occupancy and to become an integral part of the vessel or vessel control system should be insulated with approved non-combustible materials and fitted with approved fire extinguishing systems.

(b) Proposed Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases (Title 46 CFR - Subchapter O)

- (1) The nitrogen installations will meet the requirements of Part 154.

(c) Loadline Regulations (Title 46 CFR - Subchapter E)

- (1) Will be applied as noted for a Type B vessel with increased freeboard.
 - (2) A Coastwise Loadline Certificate is desired by DOE and will be assigned by ABS under the provisions of Subpart 42, as applicable.
- (d) Rules and Regulations for Mobile Offshore Drilling Units (Title 46 CFR - Subchapter IA)
 - (1) The deck crane shall meet the requirements of Subparts 108.601, and 109.521 through 109.527.
 - (2) The helicopter deck design, construction, markings, fire protection, and operations shall meet Subparts 108.231 through 108.241, 108.486 through 108.489, 108.653, 109.575 and 109.577.
- (e) Rules and Regulations for Electrical Installations (Title 46 CFR - Subchapter J)
 - (1) Existing main and auxiliary power generation, distribution and propulsion equipment will be acceptable if maintained in a good electrical and mechanical condition to the satisfaction of the OCMI. New installations will comply with current regulations.
 - (2) Electrical equipment installed in the OTEC-I test plant compartment from Fr. 71 forward to Fr. 59 aft, between wing bulkheads will comply with the applicable special requirements for Class I, Grade D hazardous areas as defined in 46 CFR 111.80.
 - (3) The emergency power and lighting system, including the emergency generator, shall comply with the current requirements of 46 CFR 112.
- (f) Marine Engineering Regulations (Title 46 CFR - Subchapter P)
 - (1) Existing machinery, piping and pressure vessel installations will be acceptable if maintained in a good and serviceable condition to the satisfaction of the OCMI. New installations shall comply with current regulations.
 - (2) Based on the OTEC-I Test Plant nominal pressure of 85-149 psi and nominal temperatures of 48-72 P, all anhydrous ammonia piping will be Class II and installed in accordance with 46 CFR 58.20-20 and ANSI-B31. 5.
 - (3) All OTEC-I Industrial Test Plant process pressure vessels and systems will be fabricated in accordance with Subparts 50, 54, 56, 58, and 61 as applicable to Mobile Offshore Drilling Units, for 190 psi design pressure maximum and stamped accordingly. Manufacturers' certificates will be furnished.
- (g) Navigation Safety Regulations will be applicable to the CHEPACHET as appropriate for the vessel's size in admeasured gross tons.
- (h) Oil Pollution Regulations will be applicable as appropriate for the vessel's size and service as set forth in Parts 155 and 156 of 33 CFR Subchapter 0.

- (i) Marine Sanitation Regulations will be applicable as appropriate for the vessel's size and service as required by 33 CFR Part 159.
- (j) The CHEPACHET will be measured to obtain new gross and net tonnages applicable after conversion to a Miscellaneous Research Platform for OTEC-1 service.
- (k) In addition to the Coast Guard Rules and Regulations as outlined herein, it is agreed that DOE will maintain the hull structure in accordance with ABS Classification Rules and that all structural modifications will comply with the current ABS Rules. Any special structural loading imposed by the removal of bulkheads and installation of the OTEC-1 plant shall be assessed.

5. MANNING. The Coast Guard will specify the minimum manning requirements on the Certificate of Inspection. All personnel in the deck, engine and steward departments will be required to be properly licensed and certificated in accordance with the Rules and Regulations for Licensing and Certificating of Merchant Marine Personnel (46 CFR Subchapter B). Such licensing and/or certification will be required as a condition of employment. The manning levels may be modified as deemed necessary by the OCMI commensurate to the special hazards of the operation. The CHEPACHET while engaged as a "Miscellaneous Research Platform for OTEC-1 Service" will be manned similar to Mobile Offshore Drilling Units as follows:

- (a) While underway on the round trip ocean voyage from the U.S. West Coast to Hawaii:

1 Master	1 Chief Engineer
1 Chief Mate	1 1st Ass't Engineer
1 2nd Mate	1 2nd Ass't Engineer
1 3rd Mate	1 3rd Ass't Engineer
4 AB Seamen	3 Firemen/Watertenders
2 Ordinary Seamen	3 Oilers
1 Radio Operator	

Other persons in the crew	- 9
Persons in addition to the crew	- 12
Total persons allowed	- 42

The manning for unlicensed deck crew indicated an appropriate call system, mess, and sanitary the bridge. If not, 6 AB's and 3 OS's will be

- (b) While operating Coastwise between ports of the Hawaiian Islands on a voyage of 16 hours or less, not more than 400 miles, and observing an eight hour work day:

1 Master
 2 Mates
 4 AB Seamen
 2 Ordinary Seamen
 1 Radio Officer (as

May carry other persons in the crew - 9
 Persons in addition to the crew - 16

Total persons allowed - 42

(c) While moored on OTEC-I test location:

1 Master
2 Mates
2 AB Seamen
1 Ordinary Seaman

1 Chief Engineer
2 Ass't Engineers
2 Firemen/Watertenders
2 Oilers

May carry other persons in the crew - 11

Persons in addition to the crew - 12

Industrial Personnel - 26

Total persons allowed - 62

(d) A suitable number of certified lifeboatmen shall be included in the crew as determined by the OCMI.

6. INDUSTRIAL PERSONNEL. In carrying out the mission of the CHEPACHET while in OTEC-I Service, the DOE has determined that certain civilian/DOE personnel must be carried on board. Such personnel will not be involved in the navigation of the vessel. These civilian/DOE personnel will not be considered members of the crew nor will they be considered passengers. The carriage of such persons, classified as Industrial Personnel, per 46 CFR 90.10-15, will be indicated by separate endorsement on the Certificate of Inspection and will also be reflected in the total number of persons allowed on board.
7. SHIPMENT AND DISCHARGE. The shipment and discharge of the crew members, except Industrial Personnel, will be in accordance with 46 CFR Subchapter B as applicable to vessels of the United States in Coastwise service. While the CHEPACHET is moored on OTEC-I Test Site location, it is not on a voyage and crew members will not sign a shipping agreement with the Master. In lieu thereof, crew members will be under written contract with the Operator of the vessel and will be issued letters of service upon completion of their contract.
8. DISCIPLINARY ACTION. The Coast Guard will not take action under RS 4450, as amended (46 USC 239), against Industrial Personnel. The Coast Guard may take action under RS 4450 as amended, (46 USC 239) against those crew members required by Certificate of Inspection, whose possession of valid seamen's documents issued by the Coast Guard is a condition of employment.
9. CASUALTY REVIEW. The Master of the CHEPACHET will report marine casualties to the Coast Guard as defined in 46 CFR 4.05 and the Coast Guard will investigate such casualties; except for casualties to the OTEC-I test plant equipment when personnel are not injured or endangered, and when the seaworthiness of the vessel is not affected.
10. SPECIAL DESIGN/MODIFICATION OF STANDARDS. While the CHEPACHET is in service as a Miscellaneous Research Platform for the OTEC-I Test Plant, the Test Plant Equipment is a special design and the Coast Guard may, in individual cases, permit such equivalents and

variations from the requirements of the regulations as may be shown to be reasonable and necessary for the special purpose for which the CHEPACHET will be operated by DOE.

11. PLAN APPROVAL. Required plan review and approval for new equipment, installations and/or modifications will be carried out in accordance with the U.S. Coast Guard rules and regulations by the Commander, Twelfth Coast Guard District (mmt).
12. REPAIRS AND ALTERATIONS. Required notice of repairs or alterations shall be carried out in accordance with the regulations in 46 CFR Subchapter I.

APPROVED

DOE Project Manager

USCG H. H. BELL 2-B-79
Chief, Office of Merchant Marine Safety